

# The Times-Dispatch

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SATURDAY, JULY 13, 1907.

## Going Out of Town?

Subscribers who leave the city temporarily should have The Times-Dispatch mailed them. Addresses will be changed as often as requested.

You can keep fully informed about Richmond affairs only through The Times-Dispatch.

Before leaving, mail or phone your address to this office. Phone 3011, City Cretation Department.

In the fog of good and evil affection it is hard for a man to walk forward in a straight line.—Emerson.

## OUR RULES OF EVIDENCE.

We publish elsewhere a communication from Mr. Lewis H. Machen, of Alexandria, on the unwritten law, in which he argues that in all cases where that law is pleaded by a man on trial for homicide, the State should be permitted to show, if it can do so by competent witnesses, that no such provocation, as alleged, existed. Mr. Machen points out that he advocated this change of law in an article published in the New York Independent of April 25, 1907, and republished in the Virginia Law Journal in June following.

Sentiment in favor of such reform of our criminal laws was crystallized by the ruling of Judge Barkdale in the Loving trial at Houston, and it is probable that the next Legislature will take action in that direction. The public are alarmed to know that a prisoner at the bar in Judge Loving's situation may prove by a woman to whom he is related that she informed him that a certain man had dishonored her; that the story which he heard so inflamed him as to cause him to slay the accused. Yet the State cannot introduce no testimony to show that the story which she related was untrue. The theory is that the effect on the mind of the prisoner at the bar was the same, whether the story was true or false, and that it would be unfair to him for the State to undertake to impeach it. That phase of the subject has been so thoroughly threshed out that further discussion of it is unnecessary. We believe the mind of the public has been made up on that point, and that there is a universal demand for the change of law suggested.

Other changes suggested by Mr. Machen are that in those cases in which the defense of insanity is a bona fide plea, it be required by law that if the accused be acquitted, he be sent for a term to one of the State hospitals for the insane; and again that the minimum punishment for manslaughter be reduced to fine, or imprisonment, or both, in the discretion of the jury.

"Perhaps in such cases," says he, "juries might be willing to impose a slight punishment, when they would be entirely unwilling to send the accused to the penitentiary."

But we should like to know of Mr. Machen what good would result from a trivial punishment like this. The object of all lawful punishment is to prevent crime, and it is certain that no man who had provocation to kill another would be deterred by the fear of a small fine or even a short term in jail. Such a law, in our belief, would tend to encourage homicide rather than to deter it.

We must meet the situation and set our faces as a law-abiding people against the shedding of blood. When a man is arraigned in court for killing another on any provocation and pleads justification, he must be made to show justification under the law of the land, and must not be allowed to dodge behind brainstorm theories, and hearsay evidence. And if he pleads as justifiable provocation that he heard a certain story from the mouth of another which incited him to commit murder, the State must have permission under the rules of evidence to disprove the story and show that the alleged provocation was imaginary and not real.

This would serve at least to make hot-headed men take the precaution to ascertain that they have been actually wronged, before snatching up a gun and rushing out to the slaughter.

THE PURE FOOD CONGRESS.

The eleventh annual convention of the State and National Food and Dairy Departments will be held at the Jamestown Exposition grounds on July 16th, 19th, and promises to be the most important pure food congress ever held in this country.

There has been a universal awakening on the subject of pure foods, and since the national law went into effect several States have enacted local laws.

This year's congress will be a joint meeting of commissioners, standard committees, chemists and inspectors, both from the States and Federal Government. Among the questions to be discussed will be the closer restriction and prohibition of artificial color, which, whether harmful or harmless, is the cloak of most food frauds; problems of sanitation in production, preparation, transportation and marketing; the city milk supply; the uninspected local slaughtering house, bake shop, soda fountain and ice cream plant; cooperation between the State and municipal authorities, and between the States and the Federal Government; uniform legislation, based upon the combined best in the State and national laws, and not on any imperfections which may have been introduced into either; the continuance of the joint committee from the Official Agricultural Chemists and from Official Food Analysts to collaborate the research of scientists and the experience of producers and manufacturers for the mutual information of both the food officials and manufacturers.

Dr. H. W. Wiley, chief of the Bureau of Chemistry, United States Department of Agriculture, will read a paper on co-operation between the Federal and State authorities and there will be papers on various topics related to the subject of pure food by distinguished experts from all parts of the United States.

Dr. E. C. Levy, of this city, will discuss "Milk Inspection Work at Richmond," and Dr. E. W. Magruder, chemist, Virginia Department of Agriculture, will read a paper on "The Guaranty Clause."

It is a sign of progressive civilization that the nation is giving such earnest attention to all subjects relating to the public health.

TAINTED NEWS.

Some time ago The Times-Dispatch published as a reprint from a North Carolina newspaper an alleged interview with one "Judge Fracker," in which he said the municipal electric plant at New Bern was a failure and would be sold to a private corporation. The Mayor of New Bern in reply to an inquiry from another newspaper said that the statements given out in the alleged interview were untrue and that he knew no such man as "Judge Fracker."

The Times-Dispatch published the substance of the Mayor's reply, and then wrote to Editor Stevens, of the New Bern Journal, asking if he could give any clue to "Judge Fracker's interview." In reply he says:

"I cannot personally give any explanation. Judge Fracker, the party so liberally quoted, is unknown in this section. It looks like a fake."

On Sunday, June 23rd, there appeared in the Industrial Section of The Times-Dispatch a communication from Wheeling, W. Va., which said that municipal ownership at Martin's Ferry had been a dismal failure. The communication in question gave figures and made statements, which, according to Mayor James M. Blackford, are utterly false. He says that there is no strike among the city's employees at the water works, electric plant, and the cost of operation were greatly exaggerated.

He presents the following figures: original cost of light plant, \$30,000; bonds issued, \$13,000, every dollar of which was paid when due.

"The electric plant was built in 1895, and has at present over \$5,000 surplus on hand."

"The net proceeds last year from water works were \$12,175; from the light plant, \$36,854, after paying bonds due, interest, etc. The total bond indebtedness at the present time is \$222,853.31, with estimated valuations of \$1,000,000."

"Last year the receipts from public utilities were \$48,000, and the excess of receipts over expenditures, which went into the hands of the sinking fund trustees enabled that board to reduce many thousands of dollars of city bonds, thus saving to the taxpayers of this city."

The Times-Dispatch regrets to find that a news item it printed in good faith appears to have been untrue. We therefore make the fullest explanation possible.

TO CONSUMERS OF MILK.

The Board of Health has been making a crusade against impure milk, and now has the co-operation of the dealers. There is good reason to believe that Richmond now has a supply of milk as pure as that of any city in the country, as delivered to the consumer. But that is not enough. The consumer must do his part and keep the milk pure, after it is delivered.

The department is to-day sending 20,000 circulars to the homes of Richmond, and every householder will receive a copy. If not he can get one by applying to the department. This circular is written in language so plain that its directions cannot be misunderstood. If consumers of milk will read it carefully and follow directions faithfully, they need have no fear of drinking diseased milk.

It is of vital importance that they do so. It will be the means of preventing disease, and possibly death.

The Health Department and the milk dealers are exerting themselves to give the people pure milk. Let the people themselves heartily co-operate.

POLICE BENEVOLENT ASSOCIATION.

On the 14th instant the police will have their annual outing for the entertainment and recreation of themselves and friends, and especially for the benefit of the Police Benevolent Association. This organization is managed by a board composed of L. Z. Morris, president; J. N. Boyd, S. H. Hayes, and W. S. Forbes. It now has a fund of \$35,000, which is growing from year to year, and the association is

now caring for five crippled men, who were out in the police service and have now been honorably retired. It is supported by contributions from the police force and their friends, and is doing more than a benevolent work. It is taking care of worn-out policemen, and is helping the efficiency of the force by giving the Board of Police Commissioners the humane means of laying off policemen who are disabled by age and replacing them with younger men. It richly deserves the generous consideration of the public.

Hon. A. P. Thomas, of Lynchburg, is a man of high character and personal popularity, but no man in the Hill City is strong enough to win a Democratic nomination on a platform of avowed opposition to the re-election of John W. Daniel to the United States Senate.

A Danville correspondent writes to inquire "What is the matter with Texas?" For obvious reasons we cannot attempt to answer such a question, but we shall be glad to mention to the gentleman at any time all that is not the matter with Texas.

The Providence Journal has reached No. 43 in its interesting series of articles on "Our Common Birds," but, curiously enough, has not yet said a word about the jailbird, the commonest fowl in America.

The registered voters of Henrico number precisely 1,299—count 'em—1,298. The chances are that the next man, fearing the hoodoo, renigged at the register.

We would like it as a great piece of kindness if Mr. Loeb would tell us what the President does with his six-shooter while swimming in the Bay.

If Mr. R. S. Baker thinks that Southern people do not care for pie, let him sit tight until we have elected a Democratic President.

"Only a radical man shall have the Democratic nomination," says Mr. Bryan, who has apparently taken the precaution to qualify.

Still, no one has charged that Mark Twain, even now, is not just as funny as Jerrum K. Jerrum.

Before we have any "true fish stories," it will obviously be necessary to identify a few true fish.

King Edward plays croquet, but his friends claim that that is his only fault.

Fairbanks named his poison.

## Rhymes for To-Day

EXACTLY.

WHAT shall I write about to-day?

That question fronts me, grim, accusing;

Where shall I find a theme for play?

How seek to make myself amusing?

The weather? No—a thousand times!

My job? I fear the crowd would

hoot me!

True! That's the very neat

rhymes.

But even that to-day won't suit me.

This modern life—some newsy bit

Political or economic?

Though these so oft abound in wit

To-day, they could not make me

comic.

A song to Sophie, a phancy-pome,

A verse of neither rhymes nor

reasons.

A timely talk, a woodland roam?

No, no! I have no theme like

these—uns.

What shall I write about to-day?

I ask that o'er and o'er with curses;

And then—I laugh and scream and

say:

"Mechinks I'll write about five

verses."

"Considerable uncertainty enshrouds

the origin of this pleasant, but reliable

jokesmiths have successfully

traced it back to the War of 1812.

H. S. H.

MERELY JOKING.

Taking Time by the Forelock.

First Dame: "Do you ever go through

your husband's pockets in the morning?"

Second Dame: "Huh! I never want

to go through them before he

goes out in the evening."—New York

Weekly.

Striking the Balance.

Preacher: "You can't be a true Christian

until you change your business method

and put your fortune in heaven's

distilleries."

Deacon: "THAT'S it. I'll invest the

other half in gold cures."—Cleveland

Leader.

Well, Would He?

"Henry, if a bold, bad man should kidnap

me, would you give a reward?"

"Don't you think he'd be entitled to a

reward, Maria?"—Houston Post.

Making It Square.

Her: "You passed me on the street yesterday

without looking at me."

Him: "If I had looked at you, I should

never have been able to pass you."—Cleveland

Leader.

Correct.

Collier Down: "Some women use idiotic

expressions. For instance, an entire woman

will rave about a 'duck of a bonnet!'"

Cutting Him: "That's proper. A duck

has a pretty big bill attached to it, you

know."—Boston Record.

POINTS FROM PARAGRAPHS.

SCHMITZ'S announcement that he will

run for Mayor next fall is peculiarly

brave; his objection in court to

"degrading" evidence which the papers are

copying and will print is a tribute to the

power of publicity to conquer wrong.—

New York Times.

The statement that it costs nothing to

smile is erroneous. A D. Heckler, of

San Francisco, said that he had

lost a smile for two for a quarter.—

St. Joseph News-Press.

Nick Longworth and Alice have gone to

the Yellowstone Park. With Forker in

Ohio, who go far to see a boiling geyser?

—Atlanta Constitution.

Any nation which expects that America

don't like war should look over the

casualties list of the annual battle of the

Fourth of July, which we fight with our

enemies for the fun of the thing.—Washington

Times.

The United States Deputy Marshall who

recently arrested John D. Rockefeller, is

supposed to have secreted himself behind

E. Parmelee Prentiss's porch and made a

noise like a rebate.—Kansas City Star.

Mr. Machen's Views.

Editor of The Times-Dispatch:

Sir—In your editorial of March 11,

1907, you said: "The Times-Dispatch

has said that the unwritten law of

Virginia is recognized because it is

the surest protection of our women,

and therefore for the welfare of

society."

Soon after reading that editorial I

wrote a brief communication to your

paper pointing out the fact that while

there was an element of justice in the

proposition, it was a very poor one, and

enforcement often involved the violation

of the rights of jurors and the plea of

emotional or temporary insanity as a

defense, I suggested that you should

as to the best form in which a statute

might be drawn to obviate these evils.

I then suggested a statute making the

jury class a jury of twelve, with the

jurors of the prosecution upon which

the accused had acted. Your paper

has since approved that suggestion,

although a number of other

papers in Virginia and a good many

as far north as New York, as far

west as Michigan, and as far west as

Oklahoma, printed editorials approving

the suggestion with more or less

warmth. Also, several prominent

equal number of dissenting opinions in

the press both in and out of the State.

In an article published in the New

York Times of July 25, 1907, and

republished in the Virginia Law

Register for June, 1907, I repeated

the suggestion previously made, my

commentation to The Times-Dispatch,

and in support of my position used the

following language:

"The whole matter of justification is

now extraneous and can be introduced

only through some subterfuge such

as a delusion of insanity or temporary

insanity. Therefore, the only

scope of such testimony is not limited

to cases in which the provocation was

under the insanity plea, but the only

relevant inquiry is whether such a

story was told the accused. The State

cannot show the untruthfulness of the

story by this method. The jury

may be regaled with many weird and

fantastic tales, which they must tech-

nically consider only as bearing upon

the sanity of the accused, but which

they really consider as bearing upon

the provocation.

"The whole provocation, were a

matter which might be lawfully con-

sidered the State would be permitted

to show that in fact no such provoca-

tion existed. The jury might then

be asked to consider the evidence

of the